

# LAST JOHN BROWN JUROR

**Sole Survivor of the Twelve Men Who Convicted  
Old Osawatimie Is Living Down in Virginia,  
Hearty and Strong—He Recalls the Scenes  
and Incidents of the Famous Trial.**

By WALTER EDWARD HARRIS.

The judge who presided at the trial of John Brown, the clerk of the court, the sheriff and all his deputies, counsel on both sides, the juror, and eleven members of the jury have long been dead. The solitary survivor of those who played such prominent parts in the drama of the trial of John Brown is still living in Virginia, not many miles from Charlottesville, where he sat in judgment on Old Osawatimie, and voted with eleven associates to send him to the gallows.

"I believe the world thinks I am dead," said Mr. Martin—William Abrams Martin is the name of this lone survivor of the John Brown trial. I found him only after a long drive through the Fauquier hills, living with his wife in a two-story, vine-embowered cottage, in the little village of Hard Scrabble. Hard Scrabble is situated at the foot of a long hill, the descent of the traveler who is unused to declivities roads, and such had ones as that which struts away from Delaplane to the straggling settlement where Mr. Martin has just celebrated his twenty-fifth birthday anniversary.

"Hard Scrabble," said Mr. Martin, "is a name of more or less difficulty to induce Mr. Martin to recall the trial of Brown. He is a constant talker when out in his shop, away from Mrs. Martin, but he has evidently described the celebrated trial so often that he has tired of the subject.

"Yes," he repeated, "I guess people think I am dead. Nobody ever comes this way. Hard Scrabble is at the end of the road. You can't have to pass it to get anywhere else worth going to. Besides, it is near half a century since the trial of Brown, and everybody who had anything to do with the trial ought to be dead by rights."

Mr. Martin shook his head so seriously and spoke with such apparent solemnity that I was constrained to think he was weighed down with the recollection of his vote to send John Brown to his death. I expressed my thought in a question.

"No, I have never regretted my part in hanging John Brown," was the ready reply. "I believe he ought to have been put to death. The jury, under their oath, could not have found any other verdict."

**Brown a Desperate Man.**

"The truth of the matter is," he went on, "we members of the jury never dream that other people would regard Brown as he was and is regarded by so many. He was a desperate man, who undertook to do murder in a most desperate manner, and who did kill a number of peaceful citizens. He was a desperado who ought to have been executed. But I have received hundreds of letters, probably from all over the country, denouncing me for having voted to convict Brown. These were very frequent some years ago, but the only one I have received in recent years was from a lady up North somewhere, who wanted to know whether I was able to sleep soundly; whether the recollection of John Brown did not cause me to be awake at night? I wrote her a line three square meals a day, made a living for my old woman and myself, and slept eight or ten hours out of every twenty-four."

"I was born in Bedford County, Pa., July 2, 1831."

"What? Born in Pennsylvania?" I interrupted.

"Yes, sir," and the old gentleman chuckled. "And I was not in the Confederate army, either, though they fought all around me. I moved to Jefferson County, Va., with my mother when I was about ten years of age. We had some property—not much. I was taught the trade of a wheelwright, and worked at it about all my life. I have always been a very temperate man, smoking a good deal, but not enough to hurt me, though the old woman—"

"Tell me about the John Brown trial," I interrupted again, for "law" was about to wander far afield.

**Story of the Trial.**

"About the trial?" and I was sure I detected a note of superiority in his words and chuckle. "Well, I don't know as there is anything I can tell you about the trial that you don't already know. I was not on the inside 't all. I just heard the next morning about Brown and his men having terrified Harpers Ferry and killed several people, and fortified themselves in the engine house. You know all about Col. Lee and Jeb Stuart coming down from Washington with the regulars and storming the engine house and capturing Brown and such of his men as wasn't dead. There was a lot of excitement, I tell you, and many people were afraid the negroes would rise up and murder every white man and woman and child. The papers were full of accounts of the raid, but they didn't print as much about it as they have been printing about the Thaw case; not as much as the Virginia papers have published about the Strother case over at Culpeper."

"I did not get much excited, and kept on at work. But I happened to go up about the courthouse on the day of the trial, or maybe, the day before, and I ran into Sheriff Canine, and he summoned me to serve on the jury. I hated it awful bad, but there wasn't any getting out of it."

"So I showed up in the courthouse on the 25th day of October, 1859. There was a great crowd of town soldiers from Richmond, and Winchester, and Frederick, and I do not know where else, guarded the courthouse. You see, Gov. Henry A. Wise was afraid there might be more trouble, and he wanted to see to it that there was no attempt made to be made from the North to rescue him, and he wouldn't take any chances. I remember seeing cannon planted in the courthouse square. The courtroom was crowded when I went in. I didn't see Brown till I got in the box. Twenty-four jurors were accepted after we had been questioned, and then counsel for the prisoner struck off eight, and the twelve were drawn by lot from the sixteen that were left. I was the last man drawn. I remember the names of the other eleven of the jury. There was Wiltshire, the foreman, and Richtelake, Timberlake, Myers, McClure, Dust, Watson, Tapp, Boyer, Osborne, Miller, and myself. It seemed to me to be a good jury, but I do not think we were sworn, but Judge Richard Parker, the judge of the circuit court of Jefferson County, who presided, told us not to talk to us about it. The clerk of the

court was named Moore, who has been dead for years. The questions put to us by the judge, as I remember, were the usual ones, as to whether we had formed or expressed an opinion concerning the case, whether we were open to capital punishment, and so on.

**First Sight of Prisoner.**

"After I got settled down in the jury box I saw Brown. He was lying on a cot, which set up probably two feet from the floor. He was a very tall man, spare, with very bushy beard, eyebrows, and hair. His hair and beard were sprinkled with gray. I remember he had eyes that looked at you like they would bore through you. He had very large hands, which looked rough like they were used to hard work. He was a powerfully built man.

"It was 5 o'clock before they got a jury, and the judge adjourned court and we were taken to the tavern in charge of a deputy or two. The next morning, at 9 o'clock, we were taken back to the courthouse, the crowd was bigger than on the day before, if that could be. The soldiers were posted about the courthouse. Brown walked into the courtroom, but he soon lay down on his cot.

"Charles Faulkner and Lawson Bots, both of them pretty good lawyers, were assigned by Judge Parker to defend Brown. Faulkner did not stay in court long, and the judge assigned a man named Green to defend the prisoner. Charles Harding, the Commonwealth's attorney of Jefferson County, prosecuted, and was assisted by Andrew Hunter, a splendid lawyer, who was employed by Gov. Wise. I heard, I remember that Brown did not look pleased when the court asked him if he had objections to the counsel assigned to him, but he did not say 'yes.'"

**Lay on His Cot.**

"When the clerk started to read the indictment Judge Parker told Brown he need not stand up, and the old fellow lay still, with his eyes shut. The indictment charged Brown and his companions with having conspired with negroes to produce insurrection, with having been guilty of treason in the Commonwealth, and with murder in the first degree. Probably there were other charges in the indictment, but they were very lengthy.

"Brown rose from the cot before or after the reading of the indictment. I have forgotten which. He begged the court to grant a continuance of his case, saying that he was suffering from a severe wound in his back and kidney. I think he said, and that his hearing was very bad, owing to wounds. The lawyers wrangled a bit over the motion to continue the case, and Judge Parker said it should go on.

"As soon as the judge said the case should go on to trial right away, one of the lawyers for the prisoners, I think it was Mr. Bots, read a telegram from a man in Akron, Ohio, saying that insanity was hereditary in the family of Brown's mother; that several of his family had been confined in asylums, and one of them had died there. Mr. Bots said the dispatch had been read to the prisoner, who said there was insanity in his mother's family, but none in his father's. Mr. Bots said I remember that the prisoner did not wish to plead insanity. Brown and Coppie, who was indicted with him, as I recall, had pleaded not guilty to the indictment."

**Made Address to Court.**

"I remember that Brown addressed the court on the subject of the insanity plea. He did not rise from his cot, but spoke lying. He was very earnest and even savage in denouncing insanity pleas as the refuge of cowards. Brown often addressed the court during the trial. He was what I would call a fluent talker. He was not eloquent.

"I do not recall all the evidence," continued the old gentleman. "I recall that the first witness for the prosecution was a man named Phillips, who was the conductor of the Baltimore and Ohio train which Brown had held up and then allowed to proceed. The jury was impressed by the statement of the conductor that the train had been delayed, and assured him that it was not his intention that blood should be spilled.

"On the third day of the trial a young man named Hoyt, from Boston, appeared and was introduced to the court by Mr. Bots, as counsel for Brown. Hoyt did not have credentials, but the judge allowed him to proceed as the associate counsel for the defense. He was very young, and I think I remember every member of the jury at being fresh.

"I remember how the jury joined in the general laughter which followed the statement of a man named Allstadt, one of Brown's prisoners in the engine house. I think the jury considered the conductor did not do much work, but slept most of the time.

**Case of the Defense.**

"The defense put on several witnesses. Every one of them had been held in the enginehouse by Brown. I recollect how Brown wept when one of them described how one of his men had been killed. There must have been some good in the old man. All the witnesses testified to the fact that Brown had treated them humanely while he held them prisoners. Mr. Hunter objected to testimony showing that Brown had treated his prisoners well. I remember that he said this had no more to do with the case than the dead languages had.

"After several witnesses were Brown had been sworn to tell the truth, and he did not answer. Brown then asked the court to postpone further proceedings until morning. He hinted that his counsel had not summoned the witnesses whose names he had given them. Bots and Green joined in asking for a postponement, but Mr. Hunter opposed the request. I am sure the sheriff said he had given the subpoenas to the witnesses, as Mr. Bots had asked, and that he could not account for their not being present. I think the judge allowed the case to be continued until the following day. But before court adjourned both Mr. Bots and Mr. Green announced that after the adjournment they would be present. They declared they had tried to do their duty by their client, and it seemed to me they had done all lawyers could do. Brown did not appear to notice what they were saying while they were telling the court they would not defend him any longer.

"When court convened the next morning, Samuel Chilton, a Virginian, living in Washington, and Henry Griswold, of Cleveland, Ohio, were introduced as counsel for the prisoner. They arrived during the night. They were good lawyers. Griswold impressed the jury especially favorably. He seemed to look on Chilton as leading counsel, but we thought Griswold the leading lawyer. Young Hoyt did a great deal of talking, even after the older lawyers arrived. Brown was allowed to put many questions to the witnesses.

**Arguments of Counsel.**

"The argument began Saturday afternoon. The Commonwealth's attorney made a speech of less than an hour, and the court adjourned until Monday. The judge allowed us to go to church on Sunday, and the deputies took us to hear Parson Dutton, at the Presbyterian

Church. On Monday morning, Mr. Griswold made the argument in behalf of Brown. It was a good one, as good as could have been made. He did not deny the crime, and he said he did not blame the people of Harpers Ferry for trying to kill Brown. He said Brown had no exception to take to the testimony, and thought it strange that the truth had not been brought out. Griswold tried to get his client off on technicalities. He said that the location of Harpers Ferry had not been proven, nor the location of the country for which the constitution found among Brown's papers, and offered in evidence, was intended. He said Brown was not to be found guilty of treason unless a citizen of the State against which the treason was alleged. It was about as good a speech as could have been made on that side of the case.

"Mr. Chilton followed Mr. Griswold. He spoke along the same line, as I now recall, but my recollection is that Griswold made a much abler argument. Certainly, after the lapse of so many years I am more impressed with Griswold's speech than with Chilton's.

**Judge Parker's Charge.**

"But the best speech was made by Mr. Hunter, who closed for the prosecution. He was an orator, as well as an able lawyer. I think there was no doubt in the minds of the jurors about what our verdict would be when Hunter closed at about 1:30 o'clock, as I remember. I do not recall but one thing Judge Parker said in his charge to the jury—perhaps they ought to be called to instructions. He said something about 'If you find the prisoner guilty of murder in the first degree, say so, and no more.'"

"We had occasion to remember that when we went to the jury room. Myers, one of the jury, who was not a man of much general intelligence, although he had managed to get together a good deal of property, began to declare, as soon as we got into the jury room, that he did not think there would be a verdict. When some of us asked him why he thought that way, he said that what the judge had said about 'saying so, and no more' would hang the jury. He talked on further and indicated that he thought the words of the judge meant that the court was to be allowed to fix the punishment, which meant that Brown would probably be hanged. Several of the jury spoke at once, asking him what they would agree to. 'I'll stay here till I die,' said Myers, 'before I'll agree to anything but hanging.'"

**The Solemn Ballot.**

"Naturally, we all felt relieved at the prospect of a speedy verdict, though nobody knew how anybody else but Myers felt about the case. We rang the bells for the sheriff, who took a message to the judge, and while we waited, what we meant by 'saying so, and no more,' and pretty soon the judge sent back word.

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